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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,114	10/15/2001	Richard H. Jones	PHB 34-221A	3750
24737	7590	03/22/2007	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			NGUYEN, DAVID Q	
			ART UNIT	PAPER NUMBER
			2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/978,114	JONES ET AL.	
	Examiner	Art Unit	
	David Q. Nguyen	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02/31/07.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 20-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 20-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20,23 and 25 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a processor operable to compose a melody corresponding to **an incoming message including a predetermined tone or melody**, does not reasonably provide enablement for “a processor operable to compose a melody corresponding to **an incoming message which does not include a predetermined tone or melody**”. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to compose a melody corresponding to **an incoming message not including a predetermined tone or melody** of the invention commensurate in scope with these claims. The specification of application mentions on page 4, lines 13-26 that the sequence of digits could represent a “canned message” that is a prestored alpha-numeric message which is recovered in response to a numeric message giving a memory). The “canned message” is considered as the message “[“ representing a melody message.

Response to Arguments

2. Applicant's arguments with respect to claims 20-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 20-29, 31-32, and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Morishima (US Patent Number 6075998).

Regarding claim 20, Morishima discloses a communication device, comprising a receiver operable to receive an incoming message that does not include a predetermined tone or melody (see col. 6, lines 18-41) and a processor in communication with the receiver and operable to compose a melody corresponding to the incoming message (see col. 6, lines 18-41).

Regarding claim 23, Morishima discloses a method of operating a communication device in alerting a user of the communication device of an incoming message, said method comprising receiving an incoming message that does not include a predetermined tone or melody (see col. 6, lines 18-41) and composing a melody corresponding to the incoming message subsequent to a reception of the incoming message (see col. 6, lines 18-41).

Regarding claim 25, Morishima discloses a communication device, comprising a receiver operable to receive an incoming message that does not include a predetermined tone or melody (see col. 6, lines 18-41) and a processor in communication with the receiver and operable to

control a display of the incoming message (see col. 3, lines 32-40) and compose a melody corresponding to the incoming message (see col. 6, lines 18-41).

Regarding claims 21-22; 24, 26-29, 31-32 and 34-35, Morishima also discloses wherein said processor is further operable to divide the incoming message into a plurality of fields to thereby compose the melody (see col. 6, lines 18-63; fig. 5) and the plurality of fields including a tempo field, a repetitive play field, and at least one note field (see col. 4, lines 1-61 and col. 5, lines 36-59); wherein the message is a numeric message (see col. 6, lines 18-63; and fig. 5); wherein the message is an alphanumeric message (see col. 6, lines 18-63; and fig. 5; 1st numeral data D1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Morishima to Armanto et al. in order to allow the sender to send message composed music by the sender.

4. Claims 30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morishima (US Patent Number 6075998) in view of Willner et al (US Patent Number 6064666).

Regarding claims 30, 33 and 36, the method and the communication device of Morishima is silent to disclose wherein the message is a voice mail message. However, Willner et al teach the message is a voice mail message (see col. 19, lines 43-62, converting a voice mail message to text). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Willner et al to the method and the communication device of Morishima in order to allow the user to compose the melodic sound using voice mail message.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nakazawa et al (US 5,739,759) teaches melody paging apparatus.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Q Nguyen
Examiner
Art Unit 2617


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER